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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN MATEO

THE PEOPLE OF THE STATE OF	)	Case Number:
CALIFORNIA,	)	
	)	
Plaintiff,	)	
	)	COMPLAINT FOR INJUNCTION, CIVIL
v.	)	PENALTIES AND ANCILLARY RELIEF
	)	
FREEDOM DEBT RELIEF, LLC, a Delaware	)	(Business and Professions Code sections 17200,
Limited Liability Company; FREEDOM DEBT	)	17203, 17204, 17206, 17500, 17535, and 17536
RELIEF, INC. a California Corporation;	)	Financial Code sections 12105, 12106, 12108,
FREEDOM FINANCIAL NETWORK, LLC, a	)	12307.1 and 12316)
Delaware Limited Liability Company dbas	)	
FREEDOM DEBT RELIEF, FREEDOM DEBT	)	
HELP, FDR; FREEDOM MORTGAGE;	)	
ALIVIO MORTGAGE, LLC, a Delaware	)	
Limited Liability Company; ALIVIO	)	
HOLDINGS, LLC, a Delaware Limited Liability	)	
Company; BILLS.COM, INC., a Delaware	)	
Corporation; BILLS.COM, LLC, a Delaware	)	
Limited Liability Company dba BILLS.COM;	)	
FREEDOM TAX RELIEF, LLC, a Delaware	)	
Limited Liability Company; ANDREW	)	
HOUSSER, an individual, BRAD STROH, an	)	
individual, and DOES 1 through 25, inclusive,	)	
Defendants.	)	
	)	
	)	

1 The People of the State of California appearing by and through James P. Fox, District  
2 Attorney of San Mateo County, by Chuck Finney, Deputy District Attorney, and Preston DuFauchard,  
3 California Corporations Commissioner, by Alan S. Weinger, Acting Deputy Commissioner, alleges  
4 upon information and belief:

5 **I.**

6 **JURISDICTION AND VENUE**

7 1. The authority of the San Mateo County District Attorney to bring this action is derived  
8 from the statutory law of the State of California, specifically Business and Professions  
9 (hereinafter, B&P) Code sections 17200, 17203, 17204, 17206, 17500, 17535, and 17536. The  
10 California Corporations Commissioner brings this action under Government Code section 11180 and  
11 Financial Code sections 12105, 12106, 12307.1, 12108 and 12316 to obtain preliminary and  
12 permanent injunctive relief, rescission, restitution, disgorgement and other equitable relief for  
13 violations of the Check Sellers, Bill Payers and Proraters Law ("CSBPPL") and the California  
14 Finance Lenders Law ("CFL") found respectively in sections 12000 et seq. and 22000 et seq. of  
15 Financial Code (hereinafter, "FC").

16 2. This Court has jurisdiction of the subject matter of this action and of the parties. Venue  
17 as to all matters between the parties relating to this action is proper in this Court. Defendants  
18 maintain systematic, continuous and substantial contacts with California consumers by their presence,  
19 in the form of public advertisements, websites and their offices located in California. Defendants'  
20 principal place of business is located at 1875 S. Grant Street, San Mateo, California and they have  
21 transacted business within and from the County of San Mateo and elsewhere in the State of  
22 California. Defendants' activities involve their advertisements, publications and toll-free telephone  
23 numbers to promote their services and solicit consumers to contact Defendants via the Internet to  
24 become their clients online by use of interactive websites. Defendants' websites provide consumers  
25 the means of transacting business from their computers with Defendants. Defendants' activities  
26 conducted by means of websites are not passive, but highly interactive, systematic and continuous so  
27 as to support a finding of general jurisdiction in this State. The violations of law alleged herein have  
28 been carried out within and from the County of San Mateo and have victimized consumers

1 throughout the State of California and in other states. At all times herein mentioned and continuing  
2 currently, Defendants advertised to and solicited consumers to purchase Defendants' services.

## 3 II.

### 4 THE PARTIES

5 3. Plaintiff, by this action and pursuant to B&P Code sections 17200, 17203, 17206, 17500,  
6 17535, and 17536 and FC sections 12105, 12106, 12108, 12307.1 and 12316 seeks to enjoin the  
7 Defendants from engaging in business practices alleged herein and seeks to obtain consumer  
8 restitution, disgorgement, civil penalties and costs for Defendants' violations.

9 4. Individual Defendant Andrew Housser ("Housser"), with others, created, owned, directed  
10 or controlled and continues to own, direct or control the entity Defendants. Previously, Housser  
11 worked for Lorantec Systems, a suspended California corporation, and for Abenona Networks, Inc., a  
12 dissolved corporation, both of which were located at the same address, 1052 Penleton Avenue,  
13 Sunnyvale, California.

14 5. Individual Defendant Bradford Stroh ("Stroh") with Housser and others created, owned,  
15 directed, or controlled and continues to own, direct or control the entity Defendants, described below.

16 6. In 2002 Housser and Stroh co-founded Defendant Freedom Financial Network, LLC  
17 ("FFN"), a Delaware Limited Liability Company, with headquarters at 1875 S. Grant Street, San  
18 Mateo, California.

19 7. The following year on March 10, 2003, Housser arranged for FFN to do business in  
20 California by filing with the California Secretary of State's Office

21 8. Housser and Stroh state that FFN is the "umbrella company" and that its five divisions  
22 include: "Bills.com, Freedom Debt Relief, Freedom Tax Relief, Freedom Student Loans and  
23 Freedom Mortgage." Stroh states, "we're already one of the biggest companies in the industry. And  
24 we're doing well."

25 9. On March 18, 2003, Housser filed a fictitious business name statement for another  
26 company, Defendant Freedom Debt Relief ("FDR"). Housser described FDR's business as "Credit &  
27 Debt Counseling Services".

28 10. Six months later on September 9, 2003, Housser filed with the California Secretary of

1 State's Office documents for Defendant Freedom Debt Relief, Inc., ("FDR, Inc.") stating it is a non-  
2 profit corporation located at 1875 S. Grant Street, San Mateo, California. However, on June 29,  
3 2006, the California Secretary of State suspended FDR, Inc., for its failure to comply with legal  
4 requirements of the California Corporations Code and tax provisions. FDR, Inc. continued to remain  
5 a suspended California corporation until the San Mateo's District Attorney's Office inquired about  
6 the company in 2007. After these inquiries by the District Attorney's Office FDR, Inc. was revived  
7 as a non-profit corporation and contemporaneously dissolved on February 1, 2008.

8 11. On October 29, 2004, Housser filed articles of organization with the California Secretary  
9 of State's Office for Defendant Freedom Debt Relief, LLC ("FDR, LLC") stating it was a Delaware  
10 Limited Liability Company.

11 12. Defendants FDR, Inc. and FDR, LLC also use the business names "Freedom Debt  
12 Relief" and "FDR", operate in the same offices, through their affiliates or their websites and  
13 hereinafter are designated "FDR".

14 13. One of the other "divisions" of FFN is Defendant Freedom Tax Relief, LLC, a Delaware  
15 Limited Liability Company, which filed with the California Secretary of State's Office on October  
16 29, 2004. Freedom Tax Relief, LLC ("FTR") also operates at 1875 S. Grant Street, San Mateo,  
17 California and via its website, [www.freedomtaxrelief.com](http://www.freedomtaxrelief.com). FTR offers to provide consumers bill  
18 paying services that include ACH processing, returned check processing, and credit card processing.

19 14. In 2005 Housser and Stroh created Defendant Alivio Holdings, LLC purportedly to  
20 act as FFN's parent entity or holding company. Alivio Holdings, LLC first filed with the California  
21 Secretary of State's Office on January 10, 2005 and it is also located at 1875 S. Grant Street, San  
22 Mateo, California. Housser and Stroh are the only members and managers of Alivio Holdings, LLC.

23 15. On November 14, 2005, Alivio Holdings, LLC acquired Defendant Bills.com to  
24 provide bill payment services. Housser stated his companies, Alivio Holdings, LLC and FFN, were  
25 very excited about the acquisition of Bills.com, viewed it as a key step in enhancing their brand and  
26 profile in the consumer debt management industry and that they "were looking forward to entering  
27 the fast growing bill payment space."

28 16. On June 21, 2006, Housser filed articles of incorporation with the California Secretary

1 of State's Office for Bills.com, Inc., also showing its business address as 1875 S. Grant Street, San  
2 Mateo, California. On February 1, 2008, Housser filed a statement with the California Secretary of  
3 State's Office listing himself as the president of Bills.com, Inc.

4 17. Then two months after creating Bills.com, Inc., on August 7, 2006, Housser filed the  
5 articles of organization with the California Secretary of State's Office for Bills.com, LLC. Housser  
6 listed himself as its member and manager of this limited liability company and stated its business  
7 address was also located at 1875 S. Grant Street, San Mateo, California. Housser described the  
8 business of Bills.com, LLC as "debt negotiation services."

9 18. Bills.com advertised on FFN's website that it offers a comprehensive Resource Center  
10 on many different financial topics and provides various debt consolidation sources. Bills.com also  
11 offers services that include debt consolidation, mortgage refinancing, bill payments, payment  
12 protection insurance, and consolidated credit card bill payments. Both Housser and Stroh provide  
13 audiovisual presentations to consumers on Bills.com's website. FFN's website provides a link to the  
14 website for Bills.com. The Bills.com website fails to disclose if it is for Bills.com Inc. or Bills.com,  
15 LLC or both entities. Bills.com states that since 2002 it has served more than 30,000 customers  
16 nationwide while managing more than \$500 million in consumer debt.

17 19. On September 4, 2007, Housser obtained from the California Department of Real  
18 Estate ("DRE") a real estate broker's license (DRE number 01815317) for Bills.com, Inc. Housser  
19 also has a real estate license (DRE number 01758735) and is the designated officer of the  
20 corporation, Bills.com, Inc. The locations for both Housser's personal California real estate license  
21 and the California real estate broker's license for Bills.com, Inc. are at 1875 Grant Street, San Mateo,  
22 California.

23 20. Affiliated with both FDR and FFN is Defendant Alivio Mortgage, LLC, a Delaware  
24 Limited Liability Company that filed with the California Secretary of State's Office on October 29,  
25 2004. It is also located at 1875 Grant Street, San Mateo, California. Alivio Mortgage, LLC is 100%  
26 owned by Alivio Holdings, LLC.

27 21. On September 19, 2005, Alivio Mortgage, LLC applied for a license as a California  
28

1 Finance Lender and Broker from the Commissioner of the California Department of Corporations,  
2 which has jurisdiction over and regulates finance lenders and brokers pursuant to the CFLL.

3 22. On December 13, 2005, the Commissioner granted a license as a finance lender and  
4 broker (Department of Corporations CFLL File No 605-3240) to Alivio Mortgage, LLC, which is  
5 conditioned on its compliance with the applicable provisions of the Financial Code. After being  
6 granted the license Alivio Mortgage, LLC moved its location without approval from the Department  
7 as required by CFLL. In fact, Alivio Mortgage, LLC did not even inform the Department about its  
8 desire to change its place of business and violated FC section 22153.

9 23. Alivio Mortgage, LLC as a licensee was required at all times to maintain a minimum  
10 net worth of at least \$25,000 pursuant to FC section 22104. Alivio Mortgage, LLC's income  
11 statement for 2007 shows a net loss of over \$115,000. Its balance sheet dated December 31, 2007,  
12 shows it failed to meet the statutory net worth requirement and instead had a net worth deficiency  
13 of over \$4,600. Alivio Mortgage, LLC violated FC section 22104.

14 24. Alivio Mortgage, LLC, co-located with the other above described businesses of  
15 Housser and Stroh, conducted business at a place in which business other than making loans is  
16 engaged in without either written notification to and the authorization of the Department. This  
17 activity violated FC section 22154.

18 25. Alivio Mortgage, LLC advertises its mortgage services as mortgage brokers, mortgage  
19 companies and real estate loans through the Yellow Pages. Alivio Mortgage, LLC marketed  
20 its services via the Internet, a call center and through other organizations. Alivio Mortgage, LLC did  
21 not disclose to the Commissioner its advertisement materials, including its website as legally  
22 required. This activity violated California Code of Regulations section 1550.

23 26. On April 2, 2008, Housser filed with the California Secretary of State's Office for his  
24 company, Freedom Lending, LLC, listing its address at 1875 S. Grant Street, San Mateo, California.

25 27. The individual and entity Defendants described above (hereafter collectively  
26 "Defendants") are owners, operators, managers, and/or directors of a businesses that advertises on the  
27 Internet and solicits consumers in California and in other states of the United States (hereafter, "other  
28 states") who have debt problems claiming that they will help consumers by negotiating settlements

1 with consumers' creditors who, for the most part, are credit card companies. Defendants solicit  
2 consumers to enter into debt reduction or bill paying contracts and agreements (hereafter,  
3 agreements).

4 28. During all relevant times since 2003 Housser and Stroh were the officers, directors,  
5 managers and operations principals of the entity Defendants. All the entity Defendants were co-  
6 located and operated from the same business address, namely 1875 S. Grant Street, San Mateo.  
7 Housser and Stroh were also the owners, shareholders, members and control persons of the entity  
8 Defendants. Housser and Stroh are the only signatories on all the bank accounts held for the above  
9 named entities. Housser and Stroh failed to file the fictitious names they use, as required by law.  
10 The only fictitious name statement that was filed in San Mateo County for Defendants expired at  
11 least eight months ago. All of these entities and fictitious business names used by Housser and Stroh  
12 functioned as their alter egos. Housser and Stroh controlled all the fees, commissions and  
13 compensation being paid to them or their alter egos. There is such a unity of interest, ownership,  
14 dominion and control of the entity Defendants by Housser and Stroh that any corporate, company, or  
15 entity form should be disregarded. Housser and Stroh using the various entity Defendants as their  
16 alter egos violated numerous provisions of the California law.

17 29. At all times herein mentioned and continuing, Defendants Housser and Stroh engaged in,  
18 caused, permitted, and/or ratified the unfair competition activities of FDR and FFN and made, caused  
19 to be made, permitted, and/or ratified untrue or misleading statements and material fact omissions to  
20 consumers in order to induce consumers to purchase Defendants' debt services in violation of B& P  
21 Code sections 17200 and 17500.

22 30. The Defendants made or caused to be made and continue to make or cause to be made  
23 untrue or misleading statements and material fact omissions and engaged in and continue to engage in  
24 unfair competition as herein alleged in San Mateo County violating the rights of consumers in  
25 California as well as consumers in other states.

26 31. The Defendants engaged in, caused and/or ratified violations of the CSBPPL and CFL  
27 as herein alleged violating the rights of consumers in California and other states.

28 32. The websites soliciting consumers that describe the debt reduction program of

1 Defendants do not disclose whether the debt reduction program is with Housser's fictitious business  
2 name, FDR, FDR , Inc., FDR, LLC, or one of their affiliates, such as Century Negotiation, Inc.  
3 Debtmerica, which also uses the name DebtAmerica. Often consumers do not know which company  
4 they are dealing with because the websites for FFN, FDR, their affiliates and others are linked or  
5 similar in appearance and content by offering a "Debt Reduction Guarantee" that a consumer will be  
6 completely debt free in as little as 12-36 months.

7 33. Plaintiff is informed and believes and on that ground alleges that Defendants, Does 1  
8 through 25, inclusive, are persons, corporations, partnerships, companies or other entities who at all  
9 times mentioned herein, have acted and are continuing to act in concert with the Defendants named  
10 in this Complaint, and each of them has participated in the acts and transactions referred to below,  
11 and each of them is responsible for said acts and transactions. The true names and capacities of  
12 Does 1 through 25, whether individuals, corporations or otherwise, are unknown to the Plaintiff, who  
13 therefore sues said Defendants under such fictitious names, pursuant to the provisions of section 474  
14 of the California Code of Civil Procedure. The Plaintiff hereby asks leave of the Court to amend this  
15 Complaint to allege the true names and capacities of such Defendants at such time as the same have  
16 been ascertained.

17 34. Plaintiff is informed and believes, and on such information and belief alleges that, at all  
18 times mentioned herein, each Defendant is and was, the agent, servant, employee, partner, and/or  
19 joint venturer of the other Defendants, and that each Defendant, in performing the acts alleged in this  
20 Complaint, was acting within the scope of such agency, service, employment, partnership or joint  
21 venture, and with the knowledge, permission, and/or consent of each and every other Defendant.

22 The Plaintiff is informed and believes, and on such information and belief alleges that each  
23 Defendant alleged to have committed any act, did commit the same pursuant to a common plan and  
24 scheme among all Defendants, and did so as the agent for each and all of its co-defendants and  
25 pursuant to and in furtherance of the common plan and scheme.

26 35. Whenever reference is made in this Complaint to "Defendants" doing any act or omission,  
27 the allegation shall mean the act of each Defendant acting individually, jointly and severally and the  
28 conspiring of these Defendants to do so.



1           36. Whenever reference is made in this complaint to any act or omission, and/or the making  
2 of or causing the making of untrue or misleading statements and/or omission of material facts by  
3 Defendants such reference shall be deemed to include Defendants' managers, directors, employees,  
4 agents, or representatives who authorized, or ratified such acts or omissions, untrue or misleading  
5 statements and/or omission of material facts while actively engaged in the management, direction or  
6 control of the affairs of said Defendants or while acting within the course and scope of their duties.

7           37. At all times herein mentioned and continuing, each Defendant has made, caused,  
8 permitted others to make, and/or ratified the untrue or misleading statements and material fact  
9 omissions alleged in the First Cause of Action in this Complaint, and has committed the acts, caused  
10 others to commit the acts, permitted others to commit the acts, or ratified the acts of others alleged in  
11 the Second, Third, and Fourth Cause of Action in this Complaint.

12           38. At all times herein mentioned and continuing, Defendants, and each of them, knew or  
13 realized that the other Defendants were engaging in or planned to engage in the violations of law  
14 alleged in the causes of action in this Complaint. Knowing or realizing that other Defendants were  
15 engaging in such unlawful conduct, each Defendant nevertheless facilitated and continued to  
16 facilitate the commission of the unlawful conduct. Each Defendant intended to and continues to  
17 intend to encourage and facilitate the commission of the unlawful conduct, and did encourage,  
18 facilitate, aid, promote, or instigate the commission of unlawful conduct, and thereby, aided and  
19 abetted and continues to aid and abet the other Defendants in unlawful conduct. The unlawful  
20 conduct alleged in this Complaint was and is conduct the Defendants intended and did facilitate and  
21 continue to do and facilitate or was and is the natural and reasonable consequence of the Defendants'  
22 conduct.

23           39. Whenever reference is made in this complaint to "Defendants," such reference shall mean  
24 the Defendants specified in paragraphs 4 through 38 of this complaint. Whenever reference is made  
25 in this complaint to any act or omission of Defendants, such allegation shall mean acts done or  
26 authorized by the officers, directors, agents and employees of the Defendant(s) while actively  
27 engaged in the management, direction or control of the affairs of the Defendants and while acting  
28 within the course and scope of their duties or employment. Each such act alleged to have been

committed by one Defendant is alleged to have occurred with the knowledge and ratification of all other Defendants named in that cause of action. At all times herein mentioned and continuing, each of the Defendants was and is the agent or employee of each of the remaining Defendants, and was and is acting within the course and scope of such agency or employment in performing the acts herein alleged. At all times herein mentioned and continuing, Defendants have engaged in a common enterprise and common course of conduct the purpose of which was to make untrue or misleading statements and material fact omissions, commit acts of unfair competition, and engage in violations of the California Civil Code, the B&P Code, the CSBPPL, and the CFLL as alleged in the four causes of action in this Complaint.

### III.

#### DEFENDANTS' UNLAWFUL BUSINESS ACTIVITIES

40. Since at least 2003 and continuing thereafter, Defendants and their affiliates have offered financial services to consumers including debt negotiation, debt reduction throughout the United States. Defendants have promoted their services by a variety of means, including Internet web sites via <http://www> that Defendants developed, maintain or accessed that include, but are not limited to the following: bills.com, freedomdebtrelief.com, [freedomdebt.net](http://freedomdebt.net), [financialfreedomnetwork.com](http://financialfreedomnetwork.com), [debthelp.com](http://debthelp.com), [debtmerica.com](http://debtmerica.com), and [debtamerica.com](http://debtamerica.com). Defendants' websites, advertisements or solicitation materials state:

Our "Debt Reduction Program" is an innovative solution for consumers struggling with large debt burdens. FDR uses debt negotiation to dramatically lower both your debt levels and your monthly payments. . .

We can help you save more money than simple consumer Credit Counseling while protecting you from the harsh impacts of bankruptcy.

- Be debt free in as little as 12-36 months!
- Lower debts down to as low as 50% of what you owe!
- Service Fee Money Back Guarantee
- Better alternative to bankruptcy, debt consolidation or credit counseling
- One Simple Monthly Payment

1           41. Defendants also use toll free telephone numbers and advertise through print and other  
2 media in which they claim that they can negotiate a reduction in the amount a consumer owed to his  
3 or her unsecured creditors by 40-60%, which would enable a consumer to pay off their debts for  
4 substantially less than the amount owed. The ads or websites tell consumers to contact Defendants  
5 for a description of their services of reducing credit card debt for an individual consumer.  
6 Defendants invite consumers to FILL OUT A QUICK ONLINE FORM to “Get A Free Quote To See  
7 How Quickly You Can Be Completely Debt Free” in 12-36 months.

8           42. In consumers’ initial telephone conversations with Defendants’ representatives, they  
9 offer consumers a “Free Savings Consultation.” Consumers are asked to identify all of their  
10 unsecured credit card accounts and the total respective amount owed. Defendants’ representatives  
11 then calculate an amount for which Defendants would purportedly be able to settle the accounts –  
12 often as low as forty percent (40%) of the balance on a consumers’ account. Defendants claimed that  
13 this reduction will save consumers money and enable them to “Be Debt Free Fast.”

14           43. Defendants charge their clients upfront fees of hundreds of dollars that are usually fifteen  
15 percent (15%) of the total amount of a consumer’s unsecured debt. Consumers were required to pay  
16 the fee before Defendants perform any debt negotiation services for them.

17           44. Consumers were often instructed to stop making payments to all of their unsecured  
18 creditors and to cease any communication with them indicating that creditors would be more willing  
19 to settle for a reduced amount once consumers’ accounts were sufficiently delinquent.

20           45. Defendants also represented that they would contact and inform all of a consumer’s  
21 unsecured creditors that they (Defendants) now represented the consumer. Consumers are required to  
22 grant Defendants as “lawful attorney-in fact full power and authority to represent” and to act on  
23 behalf of them, the “principal[s].” Defendants stated they “act in the principal’s name, place and  
24 stead.”

25           46. Defendants claimed that they could cause creditors to cease contacting consumers and  
26 negotiate directly with them. Consumers were informed to cease communicating with any of their  
27 unsecured creditors who might attempt to contact them and to direct their creditors to Defendants.

28           47. Defendants represented that purchasing their services constituted “no risk” to consumers

1 because Defendants guaranteed that its services would produce the advertised results. Consumers  
2 were told by Defendants that there were “no service fees unless we save you money.”

3 48. Defendants’ representations were false. Rather than negotiating a substantial reduction in  
4 the amount owe, Defendants were usually unable to negotiate any substantial reduction. Instead  
5 consumer’s failure to make payment or to respond to their creditors payment demands (pursuant to  
6 Defendants instructions) typically resulted in an increased amount of debt due to late fees incurred, as  
7 well as additional finance charges and possible over limit charges. In some cases, creditors also  
8 increased consumer interest rates and decreased their credit lines. Others found that the creditors  
9 were unwilling to settle for the percentage amount Defendants initially indicated.

10 49. Additionally, consumer’s respective credit reports were negatively affected due to  
11 their creditors’ reports about the consumer’s non-payment, and over limit charges as well as late fees  
12 charge offs, collections, litigation and levies or garnishments. Such negative comments and  
13 information usually remain on a consumer’s credit report for up to seven (7) years.

14 50. Often Defendants did not even contact all of the consumers’ creditors to negotiate a  
15 settlement. Thus, after months of being told that Defendants were settling their accounts, many  
16 consumers found that creditors had sent their accounts to a collection agency, or had initiated legal  
17 actions against them.

18 51. Defendants were unresponsive to consumers who attempted to contact them after  
19 discovering a problem with Defendants’ services. For example, consumers who were seriously  
20 concerned about the continuing dunning notices from creditors contacted Defendants only to find  
21 their calls, emails, faxes, or letters were ignored.

22 52. Consumers who attempted to obtain a refund of the fees paid to Defendants for  
23 their debt negotiation services, based on Defendants’ guarantee, have usually been unable to get their  
24 money returned. In those instances where a partial refund was made consumers were required to sign  
25 a questionable release that in essence prevents consumers from contacting regulators or muzzles and  
26 dictates the response that consumers are required to give regulators.

27 53. The Department of Corporations has jurisdiction over and regulates bill payers and  
28 proraters under the CSBPPL. FC section 12200, states:

No person shall engage in the business, for compensation, of selling checks, drafts, money orders, or other commercial paper serving the same purpose, or of receiving money as agent of an obligor for the purpose of paying bills, invoices, or accounts of such obligor, or acting as a prorater, nor shall any person, without direct compensation and not as an authorized agent for a utility company, accept money for the purpose of forwarding it to others in payment of utility bills, without first obtaining a license from the commissioner.

54. The definition of prorater, found in FC section 12002.1, states:

A prorater is a person who, for compensation, engages in whole or in part in the business of receiving money or evidences thereof for the purpose of distributing the money or evidences thereof among creditors in payment or partial payment of the obligations of the debtor.

55. All non-exempt bill payers and proraters in this state are required to be licensed by the Commissioner. FDR, Freedom Debt Relief, Freedom Debt Relief, Inc., Freedom Debt Relief, LLC, FFN; Freedom Tax Relief, LLC, Bills.com, Inc.; Bills.com, LLC; Bills.com; Housser, Stroh and their affiliates can not satisfy the criteria to meet any statutory exemption from the CSBPPL licensing requirement. During all relevant times they have been unlicensed and unauthorized to act as either bill payers or proraters in the State of California.

56. On May 29, 2008, pursuant to FC section 12103 the Commissioner issued a Desist and Refrain Order ("Order"), which required Defendants to, inter alia, cease from engaging in business as a bill payer or prorater unless and until they are licensed or exempt. The Order was necessary, in the public interest, for the protection of consumers and remains in full force and effect. Defendants were served with the Commissioner's Order and required to immediately comply with the Order. The Order informed Defendants they had violated FC section 12200 by engaging as a bill payer or prorater without a license or exemption. Along with the Order Defendants were informed of their right to a hearing and given a copy of FC section 12103, but never went to a hearing on the merits.

57. Companies may seek an exemption from the licensing requirements of the CSBPPL found in FC section 12200. FC sections 12100 and 12104 provide exemptions if, and only if, all the legal obligations set forth in those sections have been met. The legal obligations set forth in FC sections 12100 and 12104 are not elective, optional or discretionary but essential. Fulfillment of these legal obligations is a prerequisite to establishing an exemption from licensure. Thus, for

1 Defendants to be exempt from licensure pursuant to FC section 12100 or 12104, the mandatory  
2 conditions found in those sections must be met. Defendants cannot meet the legal requirements for  
3 any licensing exemption.

4 58. The California Legislature imposes the burden of proving an exemption from the  
5 licensing requirement on the one seeking the exemption. Defendants' burden of proving an  
6 exemption is found in FC section 12101.5, which states, "[i]n any proceeding under this law the  
7 burden of proving an exemption or exception from a definition is upon the person claiming it."

8 59. Defendants represented that they had approximately \$1 billion (\$1,000,000,000) under  
9 Management in September 2007. Since Defendants charge a fee of approximately 15% of the debt  
10 they manage, their unlicensed activities in violation of California law has resulted in revenues  
11 exceeding \$150 million (\$150,000,000). The exact amount of salaries and benefits that Housser and  
12 Stroh paid themselves has not been determined.

13 60. In November 2007, the Rhode Island Department of Business Regulation's Division of  
14 Banking issued an order to Freedom Debt Relief and FFN to immediately cease and desist their  
15 unlicensed debt management plan activities in their state and ordered them to refund all fees received  
16 relating to all debt management plans currently being serviced.

17 61. In 2008 the State of Colorado contacted Defendants about their failure to comply with the  
18 Colorado Debt Management Services Act (DMSA), §12-14.5-201, C.R.S. Defendants are unlicensed  
19 and did not timely file to register as required by Colorado law DMSA § 12-14.5-204, C.R.S.  
20 Moreover, it appears that they have violated the following legal requirements:

21 Agreement requirements, § 12-14.5-219, C.R.S. (neither FDR's current or  
22 former agreements comply);

23 Disclosure requirements, §§ 12-14.5-217 & 220, C.R.S.;

24 Advertising requirements, § 12-14.5-230, C.R.S.; and,

25 Excessive upfront fees, § 12-14.5-223(d)(2)(A), C.R.S.

26 62. Freedom Debt Relief and FFN are unlicensed in other states. Defendants have not  
27 disclosed the existence of the California, Rhode Island or Colorado regulatory actions and inquiries to  
28 their clients, consumers or the public.

1           63. Defendants have engaged in and continue to engage in unlawful conduct, which has  
2 victimized consumers residing in California as well as in other states. The Defendants were not  
3 licensed or exempted from licensure to do business as a prorater, which is a violation of the CSBPPL.  
4 The Defendants promise to offer consumers' relief from harassment from creditors or bill collectors  
5 and to negotiate with consumers' credit card company's debt settlements as low as thirty to fifty  
6 percent of the total outstanding debts of consumers. Defendants represent to consumers that their  
7 total fees will be no larger than fifteen per cent of the amount Defendants have saved for consumers  
8 in negotiating and settling consumers' debts with their creditors. Defendants' promises are illusory.  
9 Defendants' solicitations result in agreements with consumers and consumers issuing a power of  
10 attorney to Defendants to take control of consumers' funds representing that such funds will be  
11 disbursed to consumers' creditors.

12           64. Pursuant to the terms of the FDR agreement with consumers, a consumer's funds are  
13 deposited into a special bank account, which is controlled by Defendants, by the said power of  
14 attorney issued by the consumers to Defendants. Defendants represent to consumers that from this  
15 bank account, the consumers' creditors will be paid an amount, which will be negotiated by the  
16 Defendants with the consumers' creditors. Funds are immediately taken from a consumer's bank  
17 account on a monthly basis in amounts that Defendants refer to as a retainer fee, administrative fees  
18 and service fee. Additionally, amounts are taken from the consumers' accounts and paid to  
19 Defendants' affiliates.

20           65. Complaints of many consumers state that consumers' credit standing worsened after  
21 entering the Defendants' debt program because of the Defendants failure to make contact with  
22 creditors and begin negotiations for settlement of consumers' debts. The Defendants' said failure has  
23 resulted in creditors assessing additional late fees, imposing other adverse consequences, and/or filing  
24 collection lawsuits against consumers. Some consumers have complained that the Defendants' said  
25 failure has caused the consumers to have to file for bankruptcy protection, which they would not have  
26 had to do otherwise if they had not joined the Defendants' debt program.

27           66. The Defendants' advertisements and Internet and telephone solicitations of consumers to  
28 enter into agreements with defendant FDR for debt reduction services have been made, or caused to

1 be made, and continue to be made or caused to be made from the Defendants' principal place of  
2 business in San Mateo County, California. Such Internet and telephone solicitations have resulted  
3 and continue to result in consumers responding by calling the Defendants' toll-free telephone number  
4 and entering into agreements with FDR for the purchase of the Defendants' debt services. The  
5 Defendants made, or caused to be made, and continue to make untrue or misleading statements and  
6 material fact omissions and have engaged in and continue to engage in unfair competition and  
7 unlawful business practices as herein alleged in the County of San Mateo, California, victimizing  
8 consumers in California and in other states. During all times herein alleged and continuing, the  
9 Defendants have solicited and continue to solicit consumers in the state of California to purchase  
10 Defendants' debt services in violation of the California Civil Code as follows:

- 11 a) by failing to orally inform prospective consumers at the time the Defendants'  
12 sales solicitation agreements for debt reduction negotiations were executed that  
13 the consumers had the right to cancel these agreements without penalty or  
14 obligation within three business days from the date of the transaction as required  
15 by Civil Code section 1689.7(a)(1);
- 16 b) by failing to inform consumers in Defendants' agreements in the immediate  
17 proximity to the consumer's signature, in a conspicuous statement in 10-point  
18 boldface type, that the consumer had the right to cancel the transaction at any time  
19 prior to midnight of the third business day after the date of the transaction as  
20 required by Civil Code section 1689.7(a)(1); and,
- 21 c) by failing to inform consumers of their cancellation rights by failing to attach to  
22 Defendants' agreements a "Notice of Cancellation" statement in duplicate, easily  
23 detachable, containing the cancellation language, in 10-point type, as required by  
24 Civil Code section 1689.7(c).

25 67. In addition, during all times herein mentioned alleged, the Defendants have conducted  
26 and continue to conduct their debt reduction business in violation of the FC as follows:

- 27 a) by acting as a prorater and controlling consumers' monies (deposited into a  
28 special bank account) for the purpose of distributing money among consumers'  
creditors in payment or partial payment of consumers' debt obligations incurred  
primarily with credit card companies, and failing to be licensed by the California  
Department of Corporations as required by FC section 12200;
- b) by acting as a prorater and controlling consumers' monies (deposited into a  
special bank account) for the purpose of distributing the monies among creditors  
in payment or partial payment of consumers' debt obligations and charging  
consumers amounts in excess of the statutory maximum found permitted by FC



1 section 12314; and,

- 2 c) by charging consumers a cancellation fee or termination penalty in violation of  
3 FC section 12314.1.

4 **IV.**

5 **FIRST CAUSE OF ACTION**

6 **UNTRUE OR MISLEADING STATEMENTS**  
7 **AND OMISSION OF MATERIAL FACTS**  
8 **BUSINESS & PROFESSIONS CODE SECTION 17500**

9 68. Plaintiff alleges and incorporates by reference all allegations contained in paragraphs 1  
10 through 67, as though set forth herein in their entirety.

11 69. Within three (3) years prior to the filing of this complaint and continuing, Defendants  
12 have engaged in a practice to violate and violated B&P Code section 17500 by making, causing, or  
13 ratifying untrue or misleading statements and omissions of material facts via the Internet and the  
14 telephone to consumers in San Mateo County, California, throughout the State of California, and to  
15 consumers in other states, in order to induce consumers to enter into FDR's agreements for the  
16 purchase of Defendants' advertised debt reduction services. Defendants knew, or by the exercise of  
17 reasonable care should have known, that these statements were untrue or misleading and/or omitted  
18 to provide material facts at the time such statements were made or caused to be made. Such untrue  
19 or misleading statements and the omission of material facts in violation of Civil Code section  
20 1689.7(a)(1) include, but are not necessarily limited to, the following:

- 21 (a) failing to orally inform California consumers who responded to Defendants'  
22 advertisements and solicitations via the Internet and by the telephone at the time  
23 FDR's agreements for FDR's debt reduction services were executed that the consumers  
24 had the right to cancel or rescind the transactions without penalty or obligation within  
25 three business days from the date of the transaction;
- 26 (b) failing to provide to California consumers who entered into a FDR agreement for  
27 FDR's debt reduction services with a written agreement which contained in the  
28 immediate proximity to the space reserved for the purchaser's signature, a  
conspicuous statement in a size equal to at least 10 point boldface type the following:

You, the buyer, may cancel this transaction at any time  
prior to midnight of the third business day after the date

- 1 of this transaction. See the attached notice of cancellation  
 2 form for an explanation of this right.  
 3 (c) failing to provide to California consumers who entered into a FDR agreement for  
 4 FDR's debt reduction services with a written contract or agreement to which was  
 5 attached a completed form in duplicate, captioned "Notice of Cancellation", easily  
 6 detachable and containing in type of at least 10 point, the following:

7 "Notice of Cancellation"

8 Enter date of transaction \_\_\_\_\_(Date)  
 9 You may cancel this transaction, without any penalty  
 10 or obligation, within three business days from the  
 11 above date. If you cancel, any property traded in, any  
 12 payments made by you under the contract or sale, and  
 13 any negotiable instrument executed by you will be returned  
 14 within 10 days following receipt by the seller of your  
 15 cancellation notice, and any security interest arising out of  
 16 the transaction will be canceled. If you cancel, you must  
 17 make available to the seller at your residence, in substantially  
 18 as good condition as when received, any goods delivered  
 19 to you under this contract or sale, or you may, if you wish,  
 20 comply with the instructions of the seller regarding the return  
 21 shipment of the goods at the seller's expense and risk.  
 22 If you do make the goods available to the seller and  
 23 the seller does not pick them up within 20 days of the date  
 24 of your notice of cancellation, you may retain or dispose of  
 25 the goods without any further obligation. If you fail to make  
 26 the goods available to the seller, or if you agree to return the  
 27 goods to the seller and fail to do so, then you remain liable for  
 28 performance of all obligations under the contract. To cancel  
 this transaction, mail or deliver a signed and dated copy of  
 this cancellation notice, or any other written notice, or send  
 a telegram to \_\_\_\_\_(name of seller) at \_\_\_\_\_  
 (Address of seller's place of business) not later than  
 midnight of \_\_\_\_\_(Date). I hereby cancel this transaction  
 \_\_\_\_\_(Date) \_\_\_\_\_(Buyer's signature),

- (d) Representing to consumers that FDR will aggressively work to settle consumers' debts;  
 (e) Representing to consumers that FDR has a guarantee of "Guarantee: Do not pay service  
 fees unless we save you money";  
 (f) Representing to consumers that "With Freedom Debt Relief's Debt Reduction Program,  
 you can finally stop suffering and start living again.";  
 (g) Representing to consumers that "In a nutshell, you'll deal with us and we'll deal with  
 your creditors. Our goal is to get each and every one of your creditors to settle for

pennies on the dollar.”;

- (h) Representing to consumers that “FDR stands behind our service. If we can’t negotiate your debts, you pay no fees. It’s that simple – you have nothing to lose but your debts.”;
- (i) Representing to consumers that “Speaking with your creditors or collection agents is the worst thing you can do. . . it only encourages them to call you instead of Freedom Debt Relief and can impair our ability to settle your account. Creditors believe that they can collect more money from you than from us, which is why they would rather speak to you if you let them.”;
- (j) Representing to consumers in reference to consumers’ creditors that “So we need to emphasize that you should provide absolutely no other information, no matter what they say.”;
- (k) Representing to consumers that “Creditors, and particularly debt collectors, will say almost anything to get you to speak to them instead of Freedom Debt Relief. For example, they will tell you that ‘they never deal with Freedom Debt Relief’ or that ‘Freedom Debt Relief does not return their calls.’ Do not believe them. We will keep you fully informed of the negotiation process.”;
- (l) Representing to consumers that “If a particular creditor continues to call you, notify us immediately. In cases where a collection agent or collection attorney is involved, we can issue an order to cease communication in accordance with Federal Law (FDCPA). Be sure to record which creditor or collector contacted you, and provide the name and telephone number of the person who called if you have it – their harassment may help your settlement if they are breaking the law!”;
- (m) Representing to consumers that “Guarantee of Services: . . . guarantees that it will, during the Client’s plan period, negotiate, reduce, and deliver to Client a settlement offer from Client’s creditors or else. . . will refund the fee paid (if any). . . .”;
- (n) Representing to consumers that “Below is the checklist of things that you will need to do before sending it back to me. Once you have all this information together, we will start working for you right away.”;
- (o) Representing to consumers that FDR’s settlement rate is between 30 – 50 percent;
- (p) Representing to consumers that we will save you up to 70 percent, have you debt free in about 24 – 30 months, or else we will refund the program fees at the end of the program;
- (q) Representing to consumers that “we are working hard to keep your creditors at bay and to save you money.”;
- (r) Representing to consumers that “On average, Freedom’s Debt Reduction Program gets you out of debt 10 times faster than making monthly payments, and about three times faster than credit counseling. It truly is the best and fastest way to pay off your creditors, and get free of your debts without bankruptcy!”; and,

- (s) failing to inform consumers that FDR does not begin negotiations with consumers' creditors for many months.

**V.**

**SECOND CAUSE OF ACTION**

**UNFAIR COMPETITION BY ALL DEFENDANTS IN VIOLATION OF  
BUSINESS AND PROFESSIONS CODE SECTIONS 17200 AND 17203**

70. Plaintiff alleges and incorporates by reference paragraphs 1 through 69 as if set forth herein.

71. Within four (4) years prior to the filing of this complaint and continuing, Defendants, and each of them, knowingly and willfully agreed among themselves to, and have engaged in unfair competition as defined in B&P Code section 17200 and continue to do so. The Defendants, and each of them, did the acts and things herein alleged pursuant to, and in furtherance of the above-alleged agreement. Such unlawful and unfair business acts and practices include, but are not necessarily limited, to the following:

- (a) Conducting debt reduction/prorating business activities and receiving and controlling consumers' monies for the purpose of distributing monies to consumers' creditors in payment or partial payment of debt obligations, which constitutes prorater activities, and failing to obtain a license from the California Commissioner of Corporations, in violation of FC section 12200;
- (b) Conducting prorater activities and controlling consumers' monies for the purpose of distributing the monies among creditors in payment or partial payment of consumers' debt obligations and charging consumers amounts in excess of the statutory maximum permitted by FC section 12314; and,
- (c) Conducting debt reduction/prorating activities by charging consumers a cancellation fee or termination penalty in violation of FC section 12314.1.
- (d) Conducting advertising and solicitations from San Mateo County, and elsewhere in California, to consumers in California via the Internet and the telephone to enter into written agreements with Defendants for Defendants' debt reduction services and failing to orally inform consumers at the time the sales solicitation FDR agreements were executed that consumers shall have the right to cancel the FDR agreement without penalty or obligation within three business days from the date of the transaction, in violation of Civil Code section 1689.7(a)(1);
- (e) Conducting advertising and solicitations from San Mateo County, and elsewhere in

California, to consumers in California via the Internet and the telephone to enter into agreements with Defendants for Defendants' debt reduction services in violation of Civil Code section 1689.7(a)(1) by failing to provide to consumers who entered into FDR's agreements with a written agreement which contained in the immediate proximity to the consumer's signature, a conspicuous statement in 10-point boldface type the following:

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

- (f) Conducting advertising and solicitations from San Mateo County, and elsewhere in California, to consumers in California via the Internet and the telephone to enter into agreements with Defendants for Defendants' debt reduction services in violation of Civil Code Section 1689.7(c) by and failing to provide to consumers who entered into FDR's agreements with a written agreement to which was attached a completed form in duplicate, captioned "Notice of Cancellation", easily detachable and containing in type of at least 10-point, the following:

"Notice of Cancellation"

Enter date of transaction \_\_\_\_\_(Date)  
 You may cancel this transaction, without any penalty or obligation, within three business days from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled. If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract. To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to \_\_\_\_\_(name of seller) at \_\_\_\_\_(address of seller's place of business) not later than

1 midnight of \_\_\_\_\_(Date). I hereby cancel this transaction  
2 \_\_\_\_\_(Date) \_\_\_\_\_(Buyer's signature),

3 **VI.**

4 **THIRD CAUSE OF ACTION**

5 **UNLICENSED ACTIVITIES**  
6 **FINANCIAL CODE SECTION 12200**

7 72. Plaintiff alleges and incorporates by reference paragraphs 1 through 71 of this Complaint  
8 as if set forth herein.

9 73. Defendants have been engaging in business as a bill payer or prorater as defined in the  
10 CSBPPL without a license or exemption from the Commissioner in violation of FC section 12200.  
11 FC 12200 states:

12 No person shall engage in the business, for compensation, of selling  
13 checks, drafts, money orders, or other commercial paper serving the same  
14 purpose, or of receiving money as agent of an obligor for the purpose of  
15 paying bills, invoices, or accounts of such obligor, or acting as a prorater,  
16 nor shall any person, without direct compensation and not as an authorized  
agent for a utility company, accept money for the purpose of forwarding it  
to others in payment of utility bills, without first obtaining a license from  
the commissioner.

17 **VII.**

18 **FOURTH CAUSE OF ACTION**

19 **FEE OVERCHARGES AND UNAUTHORIZED CHARGES**  
20 **FINANCIAL CODE SECTION 12314 AND 12314.1**

21 74. Plaintiff alleges and incorporates by reference paragraphs 1 through 73 of this Complaint  
22 as if set forth herein.

23 75. Defendants while engaging in business as a bill payer or prorater have violated that law  
24 by overcharging consumers in violation of FC sections 12314 and 12314.1. FC section 12314 states:

25 The total charges received by a prorater, or any other person for the prorater's services, may  
26 not exceed in the aggregate twelve percent (12%) for the first three thousand dollars  
27 (\$3,000), eleven percent (11%) for the next two thousand dollars (\$2,000), and ten percent  
28 (10%) for any of the remaining payments distributed by a prorater to the creditors of a  
debtor, except for payments made on recurrent obligations. Recurring obligations shall be  
defined for the purpose of this section as follows: current rent payments, current utility  
payments, current telephone bills, current alimony payments, current monthly insurance

premium payments, and payments made on obligations which are secured by a first mortgage or first deed of trust on real property.

(a) Notwithstanding the provisions of Section 12315, upon compliance with the provisions of Sections 12315.1, and 12320, an origination fee of a sum not to exceed fifty dollars (\$50) may be charged;

(b) A fee not to exceed four dollars (\$4) per disbursement on recurring obligations, consisting of current rent payments or obligations which are secured by a first mortgage or first trust deed on real property, may be charged.

(c) A fee not to exceed one dollar (\$1) on other recurring obligations.

When a debtor has not canceled or defaulted on the performance of his contract with the prorater within 12 months after execution of the prorate contract, the prorater shall refund any origination fee charged to the debtor. At least once each month the prorater shall pay not less than 70 percent of all funds received from the debtor to the creditors of the debtor.

Section 12314.1 prohibits a cancellation or termination fee and states “[a] cancellation fee or termination penalty may not be charged to a debtor.”

76. Pursuant to FC section 12106 the Commissioner may investigate, review, examine and audit the books, accounts, records and files of bill payers and proraters. During an investigation Plaintiff discovered that Defendants charged consumers fees in excess of the amounts authorized by law. Consumers’ complaints reveal some details of amounts consumers were overcharged in aggregate of at least \$300,000. Defendants may have received over an aggregate of \$150,000,000 in charges from 2003 to the present based on their representations of the assets under management and the percentage fee they charge consumers.

77. Defendants contracts with consumers to engage in unlicensed activities are subject to voiding pursuant to FC section 12316. If Defendants’ contracts with consumers are void then Defendants are required to return all amounts received to consumers.

78. Plaintiff’s review also reveals that Defendants directly and indirectly charged consumers additional unauthorized fees that including but not limited to retention of funds obtained by consumers after they cancel their contracts. Defendants claim they are entitled to funds that amount

to up to fifteen percent (15 %) of a consumers' debt as a "retainer fee." FC section 12314.1 unequivocally prohibits the charging of a cancellation or termination fee.

79. Defendants' violations were not accidental but willful. Defendants continue to overcharge California consumers now even after the Commissioner's Order was issued to them on May 29, 2008.

### **PRAYER**

WHEREFORE, Plaintiff prays for judgment as follows:

1. That all Defendants, their managers, employees, agents, servants, partners, representatives, successors, assignees, and all persons, corporations, and other entities acting in concert or in participation with any Defendant, who have actual or constructive knowledge of the injunction, be preliminary and permanently enjoined from making or causing to be made untrue or misleading statements and omissions of material facts as set forth in paragraph 69, above, and from engaging in unfair competition as set forth in paragraph 71, above, pursuant to B&P Code sections 17535, 17203 and 17204 and FC sections 12105, 12106, 12307.1.

2. For a preliminary and permanent injunction restraining and enjoining all Defendants and all Does, and their officers, directors, successors in interest, controlling persons, agents, employees, attorneys in fact, and all other persons acting in concert or participating with them, or any of them, from directly or indirectly:

- (a) Engaging in unlicensed activities, in violation of FC section 12200;
- (b) Charging or receiving excessive fees and additional fees whether as part of the scheme described herein or otherwise, in violation of FC section 12314 and 12314.1;
- (c) Changing locations without notification to and the approval of the Commissioner, in violation of FC section 22153;
- (d) Failing to maintain minimum net worth of \$25,000, in violation of FC section 22104;
- (e) Conducting business at a place in which business other than making loans is engaged in without either written notification to and the authorization of the Department, in violation of FC section 22154;



(f) Using advertising without prior approval from the Commissioner, in violation of California Code of Regulations section 1550.

(g) Violating the Commissioner's Desist and Refrain Order;

(h) Making false statements about the Commissioner's Desist and Refrain Order and this civil complaint whether as part of the scheme complained of herein or otherwise;

(i) Destroying, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, any books, records, documents, correspondence, brochures, manuals, or other documents of any kind, including those in electronic format, relating to prorating and bill paying in the possession, custody or control of any of the Defendants until further order of this Court.

3. That Defendants and each of them pay to Plaintiff a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) for each separate act in violation of B&P Code section 17200, pursuant to B&P Code section 17206, according to proof.

4. That Defendants and each of them pay to Plaintiff a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) for each separate act in violation of B&P Code section 17500, pursuant to B&P Code section 17536, according to proof.

5. That Defendants be ordered to make restitution of all funds they have acquired by their violations of B&P Code sections 17200 and 17500 and FC section 12316.

6. For an Order of Final Judgment, pursuant to FC section 12105, requiring Defendants and all Does to disgorge to the affected consumers all fees, charges and amounts received directly or indirectly from consumers for bill paying and prorating services.

7. For an Order of Final Judgment, pursuant to FC section 12105, requiring Defendants and all Does to pay civil penalties of up to \$10,000 for each violations of the CSBPPL and the rules promulgated thereunder, according to proof.

8. For an Order declaring Defendants' contracts wherein Defendants contracted for, received and made any charge in excess of the maximum permitted by the CSBPPL void pursuant to FC section 12316 and requiring Defendants to return to the consumers all charges received by

1 Defendants.

2 9. That Defendants be ordered to pay for examination, audit and investigative costs,  
3 attorney's fees and related expenses as allowed by FC sections 12105, 12106, 12305 and to pay  
4 Plaintiff's costs of suit.

5 10. That Plaintiff be given such other and further relief as the nature of the case may require  
6 and the court deems proper and just.

7 Dated: October 30, 2008  
8 San Mateo, California

9 JAMES P. FOX, DISTRICT ATTORNEY

10  
11  
12  
13 By \_\_\_\_\_

14 CHUCK FINNEY, Deputy  
15 Attorney for Plaintiff  
16

17 PRESTON DuFAUCHARD,  
18 CALIFORNIA CORPORATIONS COMMISSIONER  
19

20  
21 By \_\_\_\_\_

22 JOAN E. KERST, Senior Corporations Counsel  
23 Attorney for Plaintiff  
24

25 NOTE: that this action is by the People of the State of California and therefore the answer to this  
26 complaint must be verified. Code of Civil Procedure Section 446.  
27  
28